

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-3598-2015
Date of decision: 19.09.2015

Santosh

... Petitioner

Vs.

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Suvir Sidhu, Advocate
for the petitioner.

Mr. Manoj Kumar Sangwan, DAG, Haryana.

RAMESHWAR SINGH MALIK, J. (ORAL)

Petitioner seeks pre-arrest bail in FIR No.496 dated 27.11.2014 under Sections 419, 420, 467, 468, 471, 120-B, 34 IPC, registered at Police Station City Sonapat, District Sonapat.

Notice of motion was issued and interim protection was granted, subject to deposit of Rs.5,60,000/- by the petitioner before learned Chief Judicial Magistrate, Sonapat, vide order dated 04.02.2015 and the same reads as under: -

“Learned counsel submits that as per the share of the petitioner in the agreement to sell, it comes to 71 sq yards in the land acquisition proceedings.

Subject to deposit of Rs.5,60,000/- by the petitioner before CJM, Sonapat, notice of motion be issued to the respondents, returnable for 23.03.2015.

Meanwhile, petitioner is directed to join the

investigation as and when called by the Investigating Officer. In the event of his/their arrest, he/they shall be released on bail by the Investigating Officer on his/their furnishing bail bonds/sureties to his satisfaction, subject to the conditions mentioned below, as envisaged in Section 438(2) Cr.P.C :-

- i. a condition that the person shall make himself/themselves available for interrogation by Police Officer as and when required;*
- ii. a condition that the person shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- iii. a condition that the person shall not leave India without the previous permission of the Court iv. such other condition as may be imposed under sub section (3) of Section 437, as if the bail were granted under that section.”*

On the next date of hearing, when no appropriate instructions were passed on to the learned counsel for the petitioner, he expressed his ignorance in this regard and on his request, case was adjourned to 19.05.2015, vide order dated 23.03.2015.

Another opportunity was granted to the petitioner vide order dated 19.05.2015. Again, vide order dated 28.07.2015, the case was adjourned for today, on the request made on behalf of learned counsel for the petitioner.

Learned counsel for the petitioner submits that instead of complying with the abovesaid order dated 04.02.2015, he has instructions to argue the case

on merits.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case. She was not the signatory to the agreement to sell. Petitioner was not aware about the land acquisition proceedings because of which, under bonafide wrong impression treating herself to be the owner, she executed the sale deed No.6939 dated 27.08.2013 for land measuring 266 square yards. In this regard, he further submits that this was the reason that the land acquisition proceedings were not even remotely referred, either in the agreement to sell or in the sale deed. In such a situation, no case under Section 420 IPC or any other offence alleged against the petitioner would be made out. He prays for allowing the present petition.

On the other hand, learned counsel for the State, on instructions from SI Dilbag Singh, Police Station City Sonapat, submits that petitioner cannot claim ignorance about the land acquisition proceedings, because notification under Section 4 of the Land Acquisition Act, had been issued way back on 16.11.2012, whereas the agreement to sell came to be executed much later. He further submits that despite knowing fully well about the land acquisition proceedings, petitioner executed the abovesaid sale deed dated 27.08.2013 qua the land, of which she was no more the owner nor had any right to execute the sale deed. Learned counsel for the State further submits that who were the other persons, who instigated the petitioner and how the transactions came to be executed, are the issues to be gone into by the investigating agency, for which custodial interrogation of the petitioner would be required. He prays for dismissal of the present petition.

Having heard the learned counsel for the parties at considerable length, after careful perusal of the record of the case and giving thoughtful

consideration to the contentions raised, this Court is of the considered opinion that keeping in view the totality of facts and circumstances of the case, referred to hereinabove, petitioner has not been found entitled for the concession of anticipatory bail. It is so said because petitioner proceeded on a malafide approach right from day one. She cannot claim ignorance about the land acquisition proceedings, because notification under Section 4 of the Land Acquisition Act had been issued much before, which was a notice to the general public.

It is also not disputed before this Court that after issuance of Section 4 Notification, petitioner was not entitled to execute the sale deed in question. Further, petitioner sold that piece of land through the abovesaid sale deed No.6939 dated 27.08.2013, qua which she was no more the owner. The sale consideration was Rs.21,28,000/-. This seems to be the primary reason that learned counsel for the petitioner, who argued the case before this Court on 04.02.2015, rightly got the notice of motion issued, subject to deposit of Rs.5,60,000/- by the petitioner, before the learned Chief Judicial Magistrate, Sonapat, failing which the concession of interim anticipatory bail would not have been granted to the petitioner.

Once the interim protection was granted, petitioner started misusing the same right from the day of the order. Thereafter, petitioner would not pass on the appropriate instructions to the learned counsel in spite of granting three more opportunities, to ensure the meticulous compliance of the notice of motion order dated 04.02.2015. Having said that, this Court feels no hesitation to conclude that petitioner is not entitled for the concession of anticipatory bail.

In view of the above and without commenting anything further on

merits at this stage, this Court is of the considered view that custodial interrogation of the petitioner would be the compulsive necessity of the investigating agency for conducting an effective investigation.

No case for anticipatory bail is made out.

Dismissed.

[RAMESHWAR SINGH MALIK]
JUDGE

19.09.2015
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